IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT

JODHPUR.

O R D E R

Ram Neewas. Versus Smt. Tulchi Devi.

S.B. Criminal Misc. Petition No. 455/2005
against the order dated 24-2-2005 passed
by the Additional Sessions Judge, Churu,
in Criminal Revision No. 210/2003.

...

Date of Order: September 13, 2006

PRESENT

HON'BLE MR. JUSTICE H.R. PANWAR

None present for the petitioner.
Mr. Ashok Upadhyaya, Public Prosecutor for the State.

BY THE COURT:

By the instant criminal miscellaneous petition under Section 482 of the Code of Criminal Procedure, 1973 (for short, "the Code" hereinafter), the petitioner has challenged the order dated 24-2-2005 passed by the Additional Sessions Judge, Churu (for short, "the Revisional Court" hereinafter) in Criminal Revision No. 210/2003, whereby the revision petition filed by the petitioner against the order dated 16-8-2003 passed by the Judicial Magistrate, Churu (for short, "the trial Court"

hereinafter), was dismissed.

No one appears for the petitioner. I have carefully gone through the memo of criminal miscellaneous petition, the orders passed by the trial Court and the Revisional Court as also the record of the trial Court.

On an application filed by the non-petitioner under Section 125 of the Code before the trial Court on 15-5-2001 seeking monthly allowance of maintenance, a notice was issued to the petitioner. The petitioner filed a reply and admitted that the non-petitioner is his legally wedded wife. The allegation of the non-petitioner against the petitioner is that she was married to the petitioner on 22-5-1998 as per Hindu rites and thereafter continued to live with him as the wife. However, subsequently, the petitioner started harassing her for demand of dowry and turned out from her matrimonial home. There had been a Panchayat and even in the Panchayat, despite request, the petitioner did not agree to keep and maintain her. The petitioner came with the plea that it was the the non-petitioner who voluntarily deserted him without reasonable and probable cause. Before the trial Court, the non-petitioner herself appeared as AW 1 and produced AW 2 Brij Lal and AW 3 Deo Karan. The petitioner appeared as NAW 1 and produced NAW 2 Dayanand. On appreciation of the evidence produced by the parties, the trial Court came to the conclusion that the petitioner,

despite having sufficient means, failed to maintain and neglected his wife, the non-petitioner, and granted monthly allowance of maintenance @ Rs.1500/- per month from the date of the application. That order came to be challenged before the Revisional Court. On examination of the record, the Revisional Court did not find any error or illegality in the order passed by the trial Court and concurred with the conclusion arrived at by the trial Court.

There is concurrent findings of facts arrived at by the Courts below. I have also gone through the evidence on record. From the evidence on record, it cannot be said that it was the non-petitioner who deserted the petitioner without reasonable cause; on the contrary, there is evidence that the petitioner used to subject the non-petitioner with cruelty and harassment in connection with demand of dowry. From the evidence, it has been established that the petitioner is having 40 Bighas of agricultural land, certain buffaloes and he is a milk-vendor, apart from running a school and his monthly income is Rs.8000/-, therefore, granting maintenance @ Rs.1500/- per month to the non-petitioner, cannot be said to be excessive in any manner. In the circumstances, therefore, in my view, both the Courts below were justified in granting maintenance of Rs.1500/- per month in favour of the non-petitioner. It cannot be said that the impugned order would result in manifest

injustice or abuse of process of the Court.

The criminal miscellaneous petition is, therefore, dismissed. The stay petition also stands dismissed.

(H.R. PANWAR), J.

mcs